

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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|---------------------------|-------|------------------------|
| ----- | | X |
| MOISES MENDEZ, | : | |
| | : | |
| Plaintiff, | : | 08 Civ. 4967 (CM)(KNF) |
| | : | |
| v. | : | |
| | : | |
| STARWOOD HOTELS & RESORTS | : | |
| WORLDWIDE, INC. | : | |
| | : | |
| Defendant. | : | |
| ----- | | X |
| STATE OF NEW YORK |) | |
| |)ss.: | |
| COUNTY OF NEW YORK |) | |

**AFFIDAVIT OF PLAINTIFF MOISES MENDEZ IN SUPPORT OF
MOTION *IN LIMINE* TO PRECLUDE TESTIMONY OF DR. ANDREW P. LEVIN
AND TESTIMONY OR EVIDENCE CONCERNING MMPI-2**

MOISES MENDEZ, being duly sworn, deposes and states as follows:

1. I am Moises Mendez, the Plaintiff in this case. I make this affidavit to support the motion by my lawyers to prohibit Dr. Levin from testifying at the trial of my case, and to prohibit Defendant from showing the jury any testimony or other evidence about the MMPI-2 examination that Dr. Levin gave me on December 5, 2008.

2. The MMPI-2 examination that Dr. Levin gave me was written in Spanish. Even though I think I understood the words of the examination questions, I could not understand all of what the questions were asking. Many of the questions were not something that I understood how to answer.

3. While I was taking the examination at Dr. Levin's office, I wrote markings next to the questions and answers that I did not understand.

4. Several times while I was taking the examination, Dr. Levin asked me if I had questions for him about the examination.

5. When I showed Dr. Levin the different questions that I did not understand and asked if he could explain to me the meaning of those questions, Dr. Levin told me not to worry about the meaning. Instead, Dr. Levin told me that I should just write down the answers that he told to me.

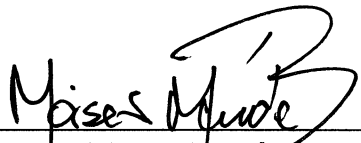
6. I did not understand why Dr. Levin told me which answers to write without explaining to me what those questions meant.

7. Even though I was very worried that I should not write things that I did not understand, I wrote the answers that Dr. Levin told me because I was afraid that Dr. Levin would accuse me of not cooperating during the MMPI-2 examination.

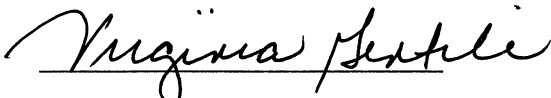
8. After I wrote the answers that Dr. Levin told me, I tried to erase the markings that I made next to the questions that I did not understand. I remember that I was not able to erase the marks completely, and that I made smudges where I tried to erase the marks.

9. I believe that if I could see the paper where I wrote my answers to the MMPI-2, I would be able to clearly see the marks that I made next to the questions that I did not understand and that Dr. Levin told me how to answer.

Dated: New York, New York
September 25, 2009


Moises Mendez

Subscribed and sworn to before me
this 25 day of September, 2009


VIRGINIA GENTILE
Notary Public, State of New York
No. 01GE4960908
Qualified in Nassau County
Commission Expires January 2, 2010